

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DIANA POWELL for SHANE POWELL,

Plaintiff,

v.

Case No. 03-74916
Honorable Patrick J. Duggan

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on December 16, 2005.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Plaintiff filed this lawsuit challenging a final decision of the Commissioner regarding Plaintiff's application for Supplement Social Security Income on behalf of her son under Title XVI of the Social Security Act. On June 29, 2005, Plaintiff filed a motion for summary judgment. On August 22, 2005, Defendant filed a motion for summary judgment. This Court referred both motions to Magistrate Judge Wallace Capel, Jr.

On November 4, 2005, Magistrate Judge Capel filed his Report and Recommendation (R&R) recommending that this Court grant Defendant's motion for

summary judgment and deny Plaintiff's motion for summary judgment. At the conclusion of the R&R, Magistrate Judge Capel advised the parties that they may object and seek review of the R&R within ten days of service upon them. He further specifically advised the parties that "failure to timely file specific objections may constitute a waiver of any further right of appeal to the United States Court of Appeals." R&R at 13 (*citing United States v. Walters*, 638 F.2d 947 (6th Cir. 1981)). Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Capel. Accordingly,

IT IS ORDERED, that Plaintiff's motion for summary judgment is **DENIED**;

IT IS FURTHER ORDERED, that Defendant's motion for summary judgment is **GRANTED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Mikel E. Lupisella, Esq.
AUSA James Brunson
Magistrate Judge Wallace Capel, Jr.